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SUBJECT: CESR CHANGES OPERATIONAL TASKS

¶1. (SBU) SUMMARY: The Committee of European Securities Regulators (CESR) has amended its charter in response to a report issued by the EU Council of Ministers earlier this year. The move is part of a broader effort to promote regulatory convergence and improve supervision of the financial markets. Changes include a more straightforward decision-making process, a mediation mechanism, integration of a Review Panel into the charter, a commitment to follow data protection rules, and a legal certainty of confidentiality. Although the Secretary General of the Paris-based

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CESR Secretariat, Fabrice Demarigny, told visiting SEC Commissioner Atkins recently that CESR's consensus-based decision-making tradition meant the mediation mechanism might see little use, over the medium term the mechanism could help build pressure for convergence of standards within the EU. END SUMMARY.

¶2. (U) The Committee of European Securities Regulators (CESR) announced in August a major overhaul of its operating procedures. CESR's goals include promoting deeper financial integration across the European Union, and ensure its functioning as a cohesive network of supervisors.

Mediation Mechanism Protocol

¶3. (U) CESR put into place a Mediation Mechanism to solve disputes between supervisory authorities, to enhance day-to-day cooperation between supervisors, and to strengthen convergence among supervisors. Normally, mediation shall be requested by, and addressed to, only one party. The Gatekeeper, who is one of the CESR Chairs, will organize and supervise the mediation and select a group of panelists to decide on each case. Though mediation outcomes are not legally binding or enforceable, if a party decides not to follow the recommendations it must submit a written explanation to CESR. Strict confidentiality of all documents, findings, discussions, and results is enforced.

Econet

¶4. (U) The Financial Economists Network has met on a regular basis for many years. In conjunction with the charter amendments, CESR created a more structured group which will be titled "Econet". This group's main objectives will be to enhance CESR's analysis of market trends and risks. It will also explore the benefits of impact analysis and, when appropriate, evaluate the feasibility of developing a new methodology for CESR. Finally, Econet will establish contacts within research departments of EU institutions,

think tanks and universities. When possible, Econet will organize seminars with the abovementioned contacts.

CESR-Tech

15. (U) CESR-Tech was established to deal with pan-EU information technology (IT) projects efficiently and effectively. A flexible structure is necessary due to the wide variety of potential issues. CESR-Tech will help members of CESR make technological choices that will facilitate an easier exchange of transaction reports.

SEC/CESR Work Plan

16. (U) A formal work plan has been created to aid the dialogue and working relations between the SEC and CESR. The three key issues that the work plan focuses on are the modernization of financial disclosure and reporting, the regulation of risk management practices, and the implementation of IFRS and US GAAP by internationally active issuers. The work plan is intended to facilitate transatlantic financial activity within a clear and safe framework.

COMMENT

17. (SBU) CESR's Secretary General, Fabrice Demarigny, told visiting SEC Commissioner Atkins in September that the new mediation mechanism is not likely to be used, since CESR has traditionally always reached consensus. In the medium-term, however, Secretary Demarigny recognizes that the mechanism could help to generate pressure within the EU for greater convergence. Moreover, the mere threat of using mediation could help to resolve problems. CESR's re-organization should be watched carefully in light of proposed transatlantic mergers, which may give rise to transatlantic regulatory challenges.

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